

59-5-101. Definitions.

As used in this part:

- (1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- (3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.
- (4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.
- (5) "Development well" means any oil and gas producing well other than a wildcat well.
- (6) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6.
- (7) "Enhanced recovery project" means:
 - (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a reservoir for the purpose of:
 - (i) augmenting reservoir energy;
 - (ii) modifying the properties of the fluids or gases in a reservoir; or
 - (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores; and
 - (b) a project initially approved by the board as a new or expanded enhanced recovery project on or after January 1, 1996.
- (8) (a) "Gas" means:
 - (i) natural gas;
 - (ii) natural gas liquids; or
 - (iii) any mixture of natural gas and natural gas liquids.(b) "Gas" does not include solid hydrocarbons.
- (9) "Incremental production" means that part of production, certified by the Division of Oil, Gas, and Mining, which is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.
- (10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form.
- (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.
- (12) (a) "Oil" means:
 - (i) crude oil;

- (ii) condensate; or
- (iii) any mixture of crude oil and condensate.
- (b) "Oil" does not include solid hydrocarbons.

(13) "Oil or gas field" means a geographical area overlying oil or gas structures. The boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and Division of Oil, Gas, and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.

(14) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation.

(15) "Operator" means any person engaged in the business of operating an oil or gas well, regardless of whether the person is:

- (a) a working interest owner;
- (b) an independent contractor; or
- (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(16) "Owner" means any person having a working interest, royalty interest, payment out of production, or any other interest in the oil or gas produced or extracted from an oil or gas well in the state, or in the proceeds of this production.

(17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable actual costs of processing oil or gas to remove:

- (i) natural gas liquids; or
- (ii) contaminants.
- (b) If processing costs are determined on the basis of an arm's-length contract, processing costs are the actual costs.
- (c) (i) If processing costs are determined on a basis other than an arm's-length contract, processing costs are those reasonable costs associated with:
 - (A) actual operating and maintenance expenses, including oil or gas used or consumed in processing;
 - (B) overhead directly attributable and allocable to the operation and maintenance; and
 - (C) (I) depreciation and a return on undepreciated capital investment; or
 - (II) a cost equal to a return on the investment in the processing facilities as determined by the commission.

(ii) Subsection (17)(c)(i) includes situations where the producer performs the processing for the producer's product.

(18) "Producer" means any working interest owner in any lands in any oil or gas field from which gas or oil is produced.

(19) "Recompletion" means any downhole operation that is:

- (a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and
- (b) approved by the division as a recompletion.

(20) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for

marketing.

(21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the proceeds of production from the oil or gas who does not have the obligation to share in the expenses of developing and operating the property.

(22) "Solid hydrocarbons" means:

- (a) coal;
- (b) gilsonite;
- (c) ozocerite;
- (d) elaterite;
- (e) oil shale;
- (f) tar sands; and
- (g) all other hydrocarbon substances that occur naturally in solid form.

(23) "Stripper well" means:

- (a) an oil well whose average daily production for the days the well has produced has been 20 barrels or less of crude oil a day during any consecutive 12-month period; or
- (b) a gas well whose average daily production for the days the well has produced has been 60 MCF or less of natural gas a day during any consecutive 90-day period.

(24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon and require further processing other than mechanical blending before becoming finished petroleum products.

(25) (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the reasonable actual costs of transporting oil or gas products from the well to the point of sale.

(b) If transportation costs are determined on the basis of an arm's-length contract, transportation costs are the actual costs.

(c) (i) If transportation costs are determined on a basis other than an arm's-length contract, transportation costs are those reasonable costs associated with:

- (A) actual operating and maintenance expenses, including fuel used or consumed in transporting the oil or gas;
- (B) overhead costs directly attributable and allocable to the operation and maintenance; and
- (C) depreciation and a return on undepreciated capital investment.

(ii) Subsection (25)(c)(i) includes situations where the producer performs the transportation for the producer's product.

(d) Regardless of whether transportation costs are determined on the basis of an arm's-length contract or a basis other than an arm's-length contract, transportation costs include:

- (i) carbon dioxide removal;
- (ii) compression;
- (iii) dehydration;
- (iv) gathering;
- (v) separating;
- (vi) treating; or

(vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

(27) "Well or wells" means any extractive means from which oil or gas is produced or extracted, located within an oil or gas field, and operated by one person.

(28) "Wildcat well" means an oil and gas producing well which is drilled and completed in a pool, as defined under Section 40-6-2, in which a well has not been previously completed as a well capable of producing in commercial quantities.

(29) "Working interest owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.

(30) (a) "Workover" means any downhole operation that is:

(i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the geologic intervals in which the well is currently completed; and

(ii) approved by the division as a workover.

(b) "Workover" does not include operations that are conducted primarily as routine maintenance or to replace worn or damaged equipment.

Amended by Chapter 344, 2009 General Session

59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Tax credit -- Tax rate reduction -- Study by Revenue and Taxation Interim Committee.

(1) (a) Subject to Subsection (1)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the basis of the value determined under Section 59-5-103.1 of the oil or gas:

(i) produced; and

(ii) (A) saved;

(B) sold; or

(C) transported from the field where the substance was produced.

(b) This section applies to an interest in oil or gas produced from a well in the state or in the proceeds of the production of oil or gas produced from a well in the state except for:

(i) an interest of the United States in oil or gas or in the proceeds of the production of oil or gas;

(ii) an interest of the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; or

(iii) an interest of an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States.

(2) (a) Subject to Subsection (2)(d), the severance tax rate for oil is as follows:

(i) 3% of the value of the oil up to and including the first \$13 per barrel for oil; and

(ii) 5% of the value of the oil from \$13.01 and above per barrel for oil.

(b) Subject to Subsection (2)(d), the severance tax rate for natural gas is as follows:

(i) 3% of the value of the natural gas up to and including the first \$1.50 per MCF for gas; and

(ii) 5% of the value of the natural gas from \$1.51 and above per MCF for gas.

(c) Subject to Subsection (2)(d), the severance tax rate for natural gas liquids is 4% of the value of the natural gas liquids.

(d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst and the Governor's Office of Management and Budget shall prepare a revenue forecast estimating the amount of revenues that:

(A) would be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and

(B) will be generated by the taxes imposed by this part for the calendar year beginning on January 1, 2004.

(ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through (c) shall be:

(A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection (2)(d)(i)(A); or

(B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under Subsection (2)(d)(i)(A).

(iii) For purposes of Subsection (2)(d)(ii):

(A) subject to Subsection (2)(d)(iv)(B):

(I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax rates shall be by the amount necessary to generate for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or

(II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax rates shall be by the amount necessary to reduce for the calendar year beginning on January 1, 2005 revenues equal to the amount by which the revenues estimated under Subsection (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and

(B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in proportion to the amount of revenues generated by each tax rate under this part for the calendar year beginning on January 1, 2003.

(iv) (A) The commission shall calculate any tax rate increase or decrease required by Subsection (2)(d)(ii) using the best information available to the commission.

(B) If the tax rates described in Subsections (2)(a) through (c) are increased or decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each person required to file a return under this part stating the tax rate in effect on January 1, 2005 as a result of the increase or decrease.

(3) If oil or gas is shipped outside the state:

- (a) the shipment constitutes a sale; and
 - (b) the oil or gas is subject to the tax imposed by this section.
- (4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:
- (i) sold;
 - (ii) transported; or
 - (iii) delivered.
- (b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.
- (5) A tax is not imposed under this section upon:
- (a) stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;
 - (b) the first 12 months of production for wildcat wells started after January 1, 1990; or
 - (c) the first six months of production for development wells started after January 1, 1990.
- (6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to 20% of the amount paid.
- (b) The tax credit under Subsection (6)(a) for each recompletion or workover may not exceed \$30,000 per well during each calendar year.
- (c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar year may be carried forward for the next three calendar years.
- (7) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.
- (8) The taxes imposed by this section are:
- (a) in addition to all other taxes provided by law; and
 - (b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the oil or gas is:
- (i) produced; and
 - (ii) (A) saved;
 - (B) sold; or
 - (C) transported from the field.
- (9) With respect to the tax imposed by this section on each owner of oil or gas or in the proceeds of the production of those substances produced in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.
- (10) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.
- (11) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

(12) (a) The Revenue and Taxation Interim Committee shall review the applicability of the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before the October 2011 interim meeting.

(b) The Revenue and Taxation Interim Committee shall address in its review the cost and benefit of not applying the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands technology.

(c) The Revenue and Taxation Interim Committee shall report its findings and recommendations under this Subsection (12) to the Legislative Management Committee on or before the November 2011 interim meeting.

Amended by Chapter 310, 2013 General Session

59-5-103.1. Valuation of oil or gas -- Deductions.

(1) (a) For purposes of the tax imposed under Section 59-5-102 and subject to Subsection (2), the value of oil or gas shall be determined at the first point closest to the well at which the fair market value for the oil or gas may be determined by:

- (i) a sale pursuant to an arm's-length contract; or
- (ii) for a sale other than a sale described in Subsection (1)(a)(i), comparison to other sales of oil or gas.

(b) For purposes of determining the fair market value of oil or gas under Subsection (1), a person subject to a tax under Section 59-5-102 may deduct:

- (i) processing costs from the value of:
 - (A) oil; or
 - (B) gas; and
 - (ii) (A) except as provided in Subsection (1)(b)(ii)(B), transportation costs from the value of:
 - (I) oil; and
 - (II) gas; and
 - (B) notwithstanding Subsection (1)(b)(ii)(A), the deduction for transportation costs may not exceed 50% of the value of the:
 - (I) oil; or
 - (II) gas.
- (2) Subsection (1)(a)(ii) applies to a sale of oil or gas between:
- (a) a parent company and a subsidiary company;
 - (b) companies wholly owned or partially owned by a common parent company;
- or
- (c) companies otherwise affiliated.

Enacted by Chapter 244, 2004 General Session

59-5-104. Statements filed -- Contents -- Falsification as perjury.

(1) (a) Every producer engaged in the production of oil or gas from any well or wells in the state shall file with the commission, on or before June 1 of each year, on forms furnished by the commission, a statement containing the information required by Subsection (1)(b) relating to the oil or gas:

- (i) produced; and
 - (ii) (A) saved;
 - (B) sold; or
 - (C) transported from the field where the oil or gas was produced during the preceding calendar year.
- (b) The statement required in Subsection (1)(a) shall include:
- (i) the name, description, and location of:
 - (A) every well or wells; and
 - (B) every field in which the well or wells are located;
 - (ii) the number of barrels of oil, the cubic feet of gas, and quantity of other hydrocarbon substances produced, including the percentage of production from lands held in trust by the United States for any federally recognized Indian tribe or its members;
 - (iii) the value of the oil or gas; and
 - (iv) any other reasonable and necessary information required by the commission.
- (2) The statements or reports required to be filed with the commission shall be signed and sworn to by the producer or a designee.
- (3) Any willful false swearing as to the purported material facts set out in this report constitutes the crime of perjury and shall be punished as such under Title 76, Utah Criminal Code.

Amended by Chapter 244, 2004 General Session

59-5-106. Interest and penalty -- Overpayments.

- (1) In case of any failure to make or file a return required by this chapter, the penalty provided in Section 59-1-401 and interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the tax. The amount so added to any tax, whether as a penalty, interest, or both, shall be collected at the same time and in the same manner and as a part of the tax.
- (2) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-5-107. Date tax due -- Extensions -- Installment payments -- Penalty on delinquencies -- Audit.

- (1) Except as provided in Subsections (2) and (3), the tax imposed by this part is due and payable on or before June 1 of the year next succeeding the calendar year when the oil or gas is:
- (a) (i) produced;
 - (ii) saved; and
 - (iii) sold; or
 - (b) transported from the field where produced.
- (2) (a) Notwithstanding Subsection (1), the commission may, for good cause

shown upon a written application by the taxpayer, extend the time of payment of the whole or any part of the tax for a period not to exceed six months.

(b) If the commission allows an extension under Subsection (2)(a), interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of the tax allowed the extension.

(3) (a) A taxpayer subject to this part whose total tax obligation for the current calendar year will be \$3,000 or more shall pay the taxes assessed under this part in quarterly installments as provided in Subsections (3)(b) and (4).

(b) For purposes of Subsection (3)(a), each quarterly installment shall be based on the estimated gross value received by the taxpayer during the quarter preceding the date on which the installment is due.

(4) For purposes of Subsection (3), the quarterly installments are due as follows:

(a) for the quarter beginning on January 1 and ending on March 31, on or before June 1;

(b) for the quarter beginning on April 1 and ending on June 30, on or before September 1;

(c) for the quarter beginning on July 1 and ending on September 30, on or before December 1; and

(d) for the quarter beginning on October 1 and ending on December 31, on or before March 1 of the next year.

(5) (a) Subject to Subsection (5)(b) and except as provided in Subsection (6), if the tax imposed by Section 59-5-102 is not paid when due or is underpaid, the taxpayer is subject to the penalty provided under Section 59-1-401.

(b) For purposes of Subsection (5)(a), an underpayment exists if less than 80% of the tax due for a quarter is paid.

(6) Notwithstanding Subsection (5)(a), the penalty for failure to pay a tax due or for underpayment of a tax may not be assessed if the taxpayer's total quarterly tax installment payments equal 25% or more of the tax reported and paid by the taxpayer for the preceding calendar year.

(7) The commission may not add interest to any quarterly installment subject to a penalty under this section.

(8) The commission may conduct audits to determine whether any tax is owed under this part.

Amended by Chapter 274, 2003 General Session

59-5-108. Tax as lien on property or oil and gas production interests.

(1) The severance tax imposed by this chapter, together with penalties and interest, is and shall remain a lien upon the owner's interest in the oil or gas well or rights in the well from which the oil or gas is extracted, until the tax is paid.

(2) In the case of an owner who has no interest in the oil or gas well, but only in the proceeds of production from it, the lien is upon the oil or gas production rights or royalty interests in the well.

Amended by Chapter 4, 1988 General Session

59-5-109. Adjudicative proceedings for correction of amount of tax.

If any person feels aggrieved because of the amount of the severance tax determined by the commission, the person may file a request for agency action with the commission within 30 days after notice is mailed to the person, requesting an adjudicative proceeding and the correction of the assessed tax.

Repealed and Re-enacted by Chapter 4, 1988 General Session

59-5-110. Decisions of commission.

Every decision of the commission shall be in writing and notice of the decision shall be mailed to the taxpayer within 10 days. All decisions become final upon the expiration of 30 days after notice has been mailed to the taxpayer, unless proceedings are taken within such time for a review in accordance with Title 63G, Chapter 4, Administrative Procedures Act, in which case it becomes final as specified in the Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-5-111. Condition precedent to judicial review.

(1) Before seeking judicial review, the taxpayer shall deposit with the commission the full amount of taxes, interest, and other charges audited and stated in the decision of the commission.

(2) (a) If the party appealing executes an undertaking meeting the requirements of Subsection (2)(b), the party is not required to pay the taxes, interest, and other charges as a condition precedent to obtaining judicial review.

(b) The taxpayer shall file an undertaking with the commission in the amount and with the surety approved by the commission.

(c) The undertaking shall provide that, if the appeal is dismissed or the decision of the commission is affirmed, the party appealing will pay all costs and charges that may accrue against the party in the prosecution of the case.

(d) At the option of the party appealing, the undertaking may be in a sum sufficient to cover the taxes, interest, and other charges, audited or stated in the decision, plus the costs or charges that may accrue against the party appealing in the prosecution of the case.

Repealed and Re-enacted by Chapter 4, 1988 General Session

59-5-114. Limitation of actions.

(1) (a) Except as provided in Subsections (1)(c) through (f), the commission shall assess the amount of taxes imposed under this part, and any penalties and interest, within six years after a taxpayer files a return.

(b) Except as provided in Subsections (1)(c) through (f), if the commission does not make an assessment under Subsection (1)(a) within six years, the commission may

not commence a proceeding for the collection of the taxes after the expiration of the six-year period.

(c) Notwithstanding Subsections (1)(a) and (b), the commission may make an assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:

- (i) fraud; or
- (ii) failure to file a return.

(d) Notwithstanding Subsections (1)(a) and (b), beginning on July 1, 1998, the commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this part if:

- (i) the six-year period under this Subsection (1) has not expired; and
- (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

(e) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (1)(f) if:

- (i) the taxpayer subsequently refuses to agree to an extension request by the commission; and
- (ii) the six-year period under this Subsection (1) expires before the commission completes the audit.

(f) An assessment under Subsection (1)(e) shall be:

- (i) for the time period for which the commission could not make an assessment because of the expiration of the six-year period; and
- (ii) in an amount equal to the difference between:
 - (A) the commission's estimate of the amount of taxes the taxpayer would have been assessed for the time period described in Subsection (1)(f)(i); and
 - (B) the amount of taxes the taxpayer actually paid for the time period described in Subsection (1)(f)(i).

(2)(a) Except as provided in Subsection (2)(b), the commission may not make a credit or refund unless the taxpayer files a claim with the commission within six years of the date of overpayment.

(b) Notwithstanding Subsection (2)(a), beginning on July 1, 1998, the commission shall extend the period for a taxpayer to file a claim under Subsection (2)(a) if:

- (i) the six-year period under Subsection (2)(a) has not expired; and
- (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

Amended by Chapter 299, 1998 General Session

59-5-115. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, 59-5-116, or 59-5-119, a tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Amended by Chapter 241, 2014 General Session

59-5-116. Disposition of certain taxes collected on Ute Indian land.

(1) Except as provided in Subsection (2), there shall be deposited into the Uintah Basin Revitalization Fund established in Section 35A-8-1602:

(a) for taxes imposed under this part, 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);

(b) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1995; and

(ii) attributable to interests:

(A) held in trust by the United States for the Tribe and its members; or

(B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and

(c) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after January 1, 2001; and

(ii) attributable to interests on lands conveyed to the tribe under the Ute-Moab Land Restoration Act, Pub. L. No. 106-398, Sec. 3303.

(2) (a) The maximum amount deposited in the Uintah Basin Revitalization Fund may not exceed:

(i) \$3,000,000 in fiscal year 2005-06;

(ii) \$5,000,000 in fiscal year 2006-07;

(iii) \$6,000,000 in fiscal years 2007-08 and 2008-09; and

(iv) for fiscal years beginning with fiscal year 2009-10, the amount determined by the commission as described in Subsection (2)(b).

(b) (i) The commission shall increase or decrease the dollar amount described in Subsection (2)(a)(iii) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2008; and

(ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar amount to the nearest whole dollar.

(c) For purposes of this Subsection (2), "consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section (1)(f)(5), Internal Revenue Code.

(d) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305 and 59-5-115.

Amended by Chapter 241, 2014 General Session

59-5-119. Disposition of certain taxes collected on Navajo Nation land

located in Utah.

(1) Except as provided in Subsection (2), there shall be deposited into the Navajo Revitalization Fund established in Section 35A-8-1704 for taxes imposed under this part beginning on July 1, 1997:

(a) 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or before June 30, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members; and

(b) 80% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

(i) for which production began on or after July 1, 1996; and

(ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members.

(2) (a) The maximum amount deposited in the Navajo Revitalization Fund may not exceed:

(i) \$2,000,000 in fiscal year 2006-07; and

(ii) \$3,000,000 for fiscal years beginning with fiscal year 2007-08.

(b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305 and 59-5-115.

Amended by Chapter 241, 2014 General Session

59-5-120. Exemption.

Beginning on January 1, 2006 and ending on June 30, 2016, no severance tax required by this chapter is imposed on oil and gas produced, saved, sold, or transported if the oil or gas produced, saved, sold, or transported is derived from:

(1) coal-to-liquids technology;

(2) oil shale; or

(3) tar sands.

Enacted by Chapter 346, 2006 General Session

59-5-201. Definitions.

As used in this part:

(1) (a) "Metalliferous minerals" includes any ore, metal, or other substance containing the following:

(i) aluminum;

(ii) antimony;

(iii) arsenic;

(iv) barium;

(v) beryllium;

(vi) bismuth;

(vii) boron;

(viii) cadmium;

(ix) calcium;
(x) cerium;
(xi) cesium;
(xii) chromium;
(xiii) cobalt;
(xiv) columbium;
(xv) copper;
(xvi) gallium;
(xvii) germanium;
(xviii) gold;
(xix) hafnium;
(xx) indium;
(xxi) iridium;
(xxii) iron;
(xxiii) lanthanum;
(xxiv) lead;
(xxv) lithium;
(xxvi) manganese;
(xxvii) mercury;
(xxviii) molybdenum;
(xxix) nickel;
(xxx) osmium;
(xxxi) palladium;
(xxxii) platinum;
(xxxiii) praseodymium;
(xxxiv) rare earth metals;
(xxxv) rhenium;
(xxxvi) rhodium;
(xxxvii) rubidium;
(xxxviii) ruthenium;
(xxxix) samarium;
(xl) scandium;
(xli) selenium;
(xlii) silicon;
(xliii) silver;
(xliv) sodium;
(xlv) strontium;
(xlvi) tantalum;
(xlvii) tellurium;
(xlviii) thallium;
(xlix) thorium;
(l) tin;
(li) titanium;
(lii) tungsten;
(liii) uranium;

- (liv) vanadium;
- (lv) yttrium;
- (lvi) zinc; or
- (lvii) zirconium.
- (b) "Metalliferous minerals" does not include:
 - (i) chloride compounds or salts;
 - (ii) potash;
 - (iii) rock, sand, gravel, and stone products;
 - (iv) gypsum;
 - (v) sulfur or sulfuric acid;
 - (vi) gem stones;
 - (vii) ammonium nitrate;
 - (viii) carbon dioxide;
 - (ix) oil, gas, coal, and all carboniferous materials; or
 - (x) phosphate.

(2) "Mine" means an operation for extracting minerals and includes any deposit of valuable metalliferous minerals that are being extracted from a natural deposit, or a secondary source including tails, slag, waste dumps, or other similar secondary source, whether in solution or otherwise.

(3) "Mining" means the act, process, or work of extracting minerals from their natural occurring environment or from a mine, and transporting or moving those minerals to the point of processing, use, or sale. "Mining" includes the process of leaching minerals from their naturally occurring deposit.

(4) "Ore" means raw materials in their natural state or condition prior to beneficiation or processing, and includes mined raw materials extracted prior to further processing. "Ore" includes any metalliferous material whose metal content is less than 15% and does not include any material whose metal content is 15% or greater.

Amended by Chapter 287, 1990 General Session

59-5-202. Severance tax -- Rate -- Computation -- Annual exemption.

(1) Every person engaged in the business of mining or extracting metalliferous minerals in this state shall pay to the state a severance tax equal to 2.6% of the taxable value of all metals or metalliferous minerals sold or otherwise disposed of.

(2) If the metals or metalliferous minerals are shipped outside the state, this constitutes a sale, and the finished metals or the recoverable units of finished metals from the metalliferous minerals shipped are subject to the severance tax. If the metals or metalliferous minerals are stockpiled, the tax is not applicable until they are sold or shipped out of state. For purposes of the tax imposed by this chapter, uranium concentrates shall be considered to be finished metals. The owner of the metals or metalliferous minerals that are stockpiled shall report to the commission annually, in a form acceptable to the commission, the amount of metalliferous minerals so stockpiled. Metals or metalliferous minerals that are stockpiled for more than two years, however, are subject to the severance tax.

(3) An annual exemption from the payment of the tax imposed by this chapter

upon the first \$50,000 in gross value of the metalliferous mineral is allowed to each mine.

(4) These taxes are in addition to all other taxes provided by law and are delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the metalliferous mineral is produced and sold or delivered.

Amended by Chapter 295, 1990 General Session

59-5-203. Determining taxable value.

(1) Except as provided in Subsection (3), the basis for computing the gross proceeds, prior to those deductions or adjustments specified in this chapter, in determining the taxable value of the metals or metalliferous minerals sold or otherwise disposed of, in the order of priority, is as follows:

(a) If the metals or metalliferous mineral products are actually sold, the value of those metals or metalliferous mineral products shall be the gross amount the producer receives from that sale, provided that the metals or metalliferous mineral products are sold under a bona fide contract of sale between unaffiliated parties. In the case of a sale of uranium concentrates, gross proceeds shall be the gross amount the producer receives from the sale of processed uranium concentrate or "yellowcake," provided that the uranium concentrate is sold under a bona fide contract of sale between unaffiliated parties.

(b) If the metals or metalliferous mineral products are not actually sold but are shipped, transported, or delivered out of state, the gross proceeds shall be the multiple of the recoverable units of finished metals, or of the finished metals contained in the metalliferous minerals shipped, and the average daily price per unit of contained metals as quoted by an established authority for market prices of metals for the period during which the tax imposed by this chapter is due. The established authority or authorities shall be designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) In the case of metals or metalliferous minerals not sold, but otherwise disposed of, for which there is no established authority for market prices of metals for the period during which the tax imposed by this chapter is due, gross proceeds is determined by allocating to the state the same proportion of the producer's total sales of metals or metalliferous minerals sold or otherwise disposed of as the producer's total Utah costs bear to the total costs associated with sale or disposal of the metal or metalliferous mineral.

(d) In the event of a sale of metals or metalliferous minerals between affiliated companies which is not a bona fide sale because the value received is not proportionate to the fair market value of the metals or metalliferous minerals or in the event that Subsection (1)(a), (b), or (c) are not applicable, the commission shall determine the value of such metals or metalliferous minerals in an equitable manner by reference to an objective standard as specified in a rule adopted in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) For all metals except beryllium, the taxable value of the metalliferous mineral sold or otherwise disposed of is 30% of the gross proceeds received for the metals sold

or otherwise disposed of by the producer of the metal.

(3) (a) Beginning on January 1, 1990, through December 31, 2004, for beryllium sold or otherwise disposed of, the taxable value is 20% of the gross proceeds received for the beryllium sold or otherwise disposed of by the producer.

(b) (i) Notwithstanding Subsection (1) or (4) and subject to Subsection (3)(b)(ii), beginning on January 1, 2005, the taxable value of beryllium sold or otherwise disposed of by the producer of the beryllium is equal to 125% of the direct mining costs incurred in mining the beryllium.

(ii) For an action or proceeding filed on or after January 1, 2005, if the taxable value of beryllium is calculated under Subsection (3)(a) for purposes of imposing a tax on beryllium under this part, the taxable value of beryllium calculated under Subsection (3)(a) may not exceed the taxable value of beryllium calculated under Subsection (3)(b)(i).

(4) Except as provided in Subsection (3), if the metalliferous mineral sold or otherwise disposed of is sold or shipped out of state in the form of ore, then the taxable value is 80% of the gross proceeds.

Amended by Chapter 382, 2008 General Session

59-5-204. Statements filed -- Contents -- Verification -- Falsification as perjury.

(1) Every person engaged in the business of mining or extracting metalliferous minerals shall make and file with the commission, on or before June 1 of each year on forms furnished by the commission, a statement containing:

(a) the name, description, and location of the mine owned and operated by the person during the preceding calendar year;

(b) the number of tons of mineral mined during the preceding calendar year and the disposition of the mineral;

(c) the total amount received during the preceding calendar year from the sale of minerals; and

(d) such other reasonable and necessary information as the commission may require for the proper enforcement of this chapter as specified in a rule adopted under Title 63G, Chapter 3, the Administrative Rulemaking Act.

(2) The owner of the mine shall be responsible for the statement or report required by this section, but the principal lessee, contractor, or operator may, with the consent of the commission, report and pay the tax as agent for the owner. The owner shall be entitled to deduct and remit to the commission any tax chargeable upon the operations conducted by the lessees or other parties.

(3) The statements or reports required to be filed with the commission shall be signed and sworn to by the person required to file the statements or reports, by a partner if a partnership, or by the president, secretary, or managing officer, if a corporation. Any willful false swearing as to the purported material facts set out in this report constitutes the crime of perjury and shall be punished as such under Title 76, the Utah Criminal Code.

Amended by Chapter 382, 2008 General Session

59-5-206. Interest and penalty -- Overpayments.

(1) In case of any failure to make or file a return required by this chapter, the penalty provided in Section 59-1-401 and interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the tax. The amount so added to any tax, whether as a penalty, interest, or both, shall be collected at the same time and in the same manner and as a part of the tax.

(2) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

59-5-207. Date tax due -- Extensions -- Installment payments -- Penalty on delinquencies -- Audit.

(1) The tax imposed by this chapter is due and payable on or before June 1 of the year next succeeding the calendar year when the mineral is produced and sold or delivered.

(2) The commission may, for good cause shown upon a written application by the taxpayer, extend the time of payment of the whole or any part of the tax for a period not to exceed six months. If an extension is granted, interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of the deferred payment of the tax.

(3) Every taxpayer subject to this chapter whose total tax obligation for the preceding calendar year was \$3,000 or more shall pay the taxes assessed under this chapter in quarterly installments. Each installment shall be based on the estimated gross value received by the taxpayer during the quarter preceding the date on which the installment is due.

(4) The quarterly installments are due as follows:

(a) for January 1 through March 31, on or before June 1;

(b) for April 1 through June 30, on or before September 1;

(c) for July 1 through September 30, on or before December 1; and

(d) for October 1 through December 31, on or before March 1 of the next year.

(5) (a) If the taxpayer fails to report and pay any tax when due, the taxpayer is subject to the penalties provided under Section 59-1-401, unless otherwise provided in Subsection (6).

(b) An underpayment exists if less than 80% of the tax due for a quarter is paid.

(6) The penalty for failure to pay the tax due or underpayment of tax may not be assessed if the taxpayer's quarterly tax installment payment equals 25% of the tax reported and paid by the taxpayer for the preceding taxable year.

(7) There shall be no interest added to any estimated tax payments subject to a penalty under this section.

(8) The commission may conduct audits to determine whether any tax is owed under this section.

Amended by Chapter 228, 1995 General Session

59-5-208. Tax as lien.

The tax imposed by this chapter, together with penalties and interest, is and shall remain a lien upon the mine or mining claim from which the mineral is extracted, until the tax is paid. In the case of unpatented claims or leases on unpatented ground, the lien shall be upon the mining rights.

Enacted by Chapter 4, 1988 General Session

59-5-209. Adjudicative proceedings for correction of amount of tax.

If any person feels aggrieved because of the amount of the tax determined by the commission, the person may file a request for agency action with the commission within 30 days after notice is mailed to the person, requesting an adjudicative proceeding and the correction of the assessed tax.

Enacted by Chapter 4, 1988 General Session

59-5-210. Decisions of commission.

Every decision of the commission shall be in writing and notice of the decision shall be mailed to the taxpayer within 10 days. All decisions become final upon the expiration of 30 days after notice has been mailed to the taxpayer, unless proceedings are taken within such time for a review in accordance with Title 63G, Chapter 4, Administrative Procedures Act, in which case it becomes final as specified in the Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-5-211. Condition precedent to judicial review.

(1) Before seeking judicial review, the taxpayer shall deposit with the commission the full amount of taxes, interest, and other charges audited and stated in the decision of the commission.

(2) (a) If the party appealing executes an undertaking meeting the requirements of Subsection (2)(b), the party is not required to pay the taxes, interest, and other charges as a condition precedent to obtaining judicial review.

(b) The undertaking shall be filed with the commission in the amount and with the surety approved by the commission.

(c) The undertaking shall provide that, if the appeal is dismissed or the decision of the commission is affirmed, the party appealing will pay all costs and charges that may accrue against the party in the prosecution of the case.

(d) At the option of the party appealing, the undertaking may be in a sum sufficient to cover the taxes, interest, and other charges, audited or stated in the decision, plus the costs or charges that may accrue against the party appealing in the prosecution of the case.

Enacted by Chapter 4, 1988 General Session

59-5-215. Disposition of taxes collected -- Credit to General Fund.

Except as provided in Section 51-9-305, a tax imposed and collected under Section 59-5-202 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.

Amended by Chapter 241, 2014 General Session